

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

WILFORD STEVE BOLING,)	
)	
Plaintiff,)	
)	
vs.)	No. CIV-09-1281-C
)	
MICHAEL J. ASTRUE,)	
Commissioner of the Social Security)	
Administration,)	
)	
Defendant.)	

ORDER AFFIRMING REPORT AND RECOMMENDATION

This action for judicial review of the Commissioner's denial of disability insurance benefits was referred for initial proceedings to United States Magistrate Judge Doyle W. Argo, consistent with 28 U.S.C. § 636(b)(1)(B). Judge Argo entered a Report and Recommendation on August 12, 2010, recommending that the decision of the Commissioner be affirmed. Plaintiff, through counsel, has timely filed an objection to this report, and the Court therefore considers the matter de novo.

Plaintiff's only objection to the Report and Recommendation is his assertion that the Appeals Council failed to evaluate a medical report prepared and submitted after the ALJ's decision, contrary to the requirements of 20 C.F.R.404, 970(b). Plaintiff's objection is without merit. The Appeals Council did consider the new medical evidence (see Tr. 1, 4).

And, as Judge Argo correctly concluded, the Appeals Council is not required to explain its evaluation, nor is the report itself sufficient evidence to overturn the decision of the ALJ.

Accordingly, the Court adopts and affirms, in its entirety, the Report and Recommendation of the Magistrate Judge, and for the reasons stated therein, the decision of the Commissioner in this case is affirmed. A judgment will enter accordingly.

IT IS SO ORDERED this 20th day of September, 2010.



ROBIN J. CAUTHRON
United States District Judge